

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

OSTERHAUS PHARMACY, INC. on behalf  
of itself and all others similarly situated,

Plaintiff,

v.

CVS HEALTH CORPORATION, CVS  
PHARMACY, INC., CAREMARK Rx, L.L.C.  
(f/k/a CAREMARK Rx, INC.), CAREMARK,  
L.L.C., CAREMARKPCS, L.L.C.,  
CAREMARK PCS HEALTH L.L.C.,  
CAREMARK IPA, L.L.C., CAREMARK  
PART D SERVICES, LLC, AETNA INC.,  
AETNA HEALTH HOLDINGS, LLC, AND  
AETNA HEALTH MANAGEMENT, LLC,

Defendants.

Case No. 2:23-cv-01500-RSM

Hon. Ricardo S. Martinez

**SUPPLEMENTAL DECLARATION OF  
STEVEN D. MCCALL**

I, Steven D. McCall, declare as follows:

1. I am a legal adult of sound mind, have knowledge of the facts stated in this declaration, and, if called on to do so, could testify competently to those facts.

2. On or about December 21, 2023, I executed a declaration in this matter.

3. This declaration incorporates and supplements my December 2023 declaration.

4. Unless redefined for clarity or otherwise specified, defined terms have the same meaning as in my December 2023 declaration.

5. Exhibits A through C, referred to below, are attached to this declaration.

6. Exhibits 1 through 9 were attached to my December 2023 declaration.

1           7. As noted in paragraph 29 of my December 2023 declaration, throughout  
2 Osterhaus's participation in Caremark's pharmacy networks, the Osterhaus Provider Agreement  
3 incorporated multiple versions of the Provider Manual.

4           8. In addition to the versions of the Provider Manual mentioned in my December 2023  
5 declaration, on January 1, 2010, the 2010 CVS Caremark Provider Manual (the "2010 Provider  
6 Manual") went into effect. A true and correct copy of an excerpt from the 2010 Provider Manual  
7 is attached to this declaration as **Exhibit A**.

8           9. On January 1, 2012, the 2012 CVS Caremark Provider Manual (the "2012 Provider  
9 Manual") went into effect. A true and correct copy of an excerpt from the 2012 Provider Manual  
10 is attached to this declaration as **Exhibit B**.

11           10. On January 1, 2014, the 2014 CVS Caremark Provider Manual (the "2014 Provider  
12 Manual") went into effect. A true and correct copy of an excerpt from the 2014 Provider Manual  
13 is attached to this declaration as **Exhibit C**.

14           11. The 2010 Provider Manual, the 2012 Provider Manual, and the 2014 Provider  
15 Manual, like the versions of the Provider Manual referenced in my 2023 declaration, each contain  
16 an amendment provision stating that "[f]rom time to time, and notwithstanding any other provision  
17 in the Provider Agreement (which includes the Provider Manual), Caremark may amend the  
18 Provider Agreement, including the Provider Manual or other Caremark Documents, by giving  
19 notice to Provider of the terms of the amendment and specifying the date the amendment becomes  
20 effective." (See **Exhibit A**, 2010 Manual, p. 43; **Exhibit B**, 2012 Manual, p. 50; **Exhibit C**, 2014  
21 Manual, p. 45.)

22           12. This amendment provision further states that, based on a provider's submission of  
23 "claims to Caremark after the effective date of any notice or amendment, the terms of the notice  
24 or amendment is accepted by Provider and is considered part of the Provider Agreement." (See  
25 **Exhibit A**, 2010 Manual, p. 43; **Exhibit B**, 2012 Manual, p. 50; **Exhibit C**, 2014 Manual, p. 45.)  
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1 Executed on February 26, 2024



Steven D. McCall, R.Ph., MBA  
Vice President, Network Solutions

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